Court No.2

Civil Petition No.506 (M/S) of 2002.

Rahul Sharma ..... Petitioner.

Versus

Dhanesh Gupta and two others ..... Respondents.

……..

Hon'ble P.C. Verma, J.

This writ petition has been filed by the petitioner challenging the order dated 06.07.2002 passed by the Judge Small Cause Court/Addl. District Judge, F.T.C. II, Dehradun is S.C.C. Suit No.26 of 1998, rejecting the application for amendment in the written statement moved in the suit.

There is already an order of this Court for expeditious trial of the suit and to complete the trial with a period of three months. The amendment sought in the written statement is that Para-1 and Para-14 are same in nature. The petitioner/defendant has sought the first amendment in the written statement by adding in all these paras "plaintiff is the owner of the premises bearing Municipal No.78, Akash Deep Colony, Dehradun". From the reading of the plaint, it is evident that the amendment sought is clearly stated in the plaint. Therefore, by making this amendment, the defendant is not getting any opportunity to set up a defence in his favour. Since the amendment sought is already stated in the written statement, therefore, the amendment is not necessary at all and the amendment sought has rightly been rejected on this point.

The second amendment sought is that the premises was let out by Sri Vinod Narain and not by Dhanesh Gupta. This amendment is also not going to help the petitioner in any manner as the plaint itself has been filed by Dhanesh Gupta through his attorney vinod Narain. Meaning thereby Dhanesh Gupta has admitted the tenancy of the defendant. Therefore, the amendment on this point has also rightly been rejected.

The third amendment sought is relating to the rent deed dated 07.11.1997. The date of execution of the rent deed has been denied by Vinod Narian in his examination-in-chief. The genuineness of a document is a subject matter of evidence with is being led by the parties in the trial of the suit. Relating to this document no document is required in the written statement at this stage. In substance, there exist a denial in the written statement. Therefore, the amendment was only with a view to delay the disposal of trial of the suit. Therefore, the order of rejection of the amendment application does not call for any interference.

Learned Counsel for the petitioner submits that trial Court has not assigned any reason in disposing of the application. Having gone through the case I have given the reasons and I do not find that the amendment was liable to be allowed. Therefore, I confirmed the order passed by the trial Court.

For the reasons recorded above, the writ petition is dismissed. No order as to costs.

(P.C. Verma, J.)

23.07.2002
P.Singh